THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition (M/S) No. 4371 of 2001
Old No. 27798 of 1992

1. Ms. Lalita Kapoor, D/o C.L. Kapoor,
R/O 21, Canaught Palace, Dehradun.

2. Dharamendra Khanna
S/o Sri Ashwani Khanna,
At present residing at 21 Canaught Place,
Block No. 3, Dehradun.

…….. **Petitioners.**

Versus

1. Rent Control and Eviction Officer, Dehradun.

2. Anil Kumar Gupta, Advocate
S/o Sri Hukum Chand,
R/o Sahespur, Dehradun.

……**Respondents.**

Sri Ramji Srivastava, learned counsel for the petitioner no.2
None for respondent No. 2.

Dated February 27, 2006.

Hon'ble B.S.Verma, J.

Notices were issued to respondent No. 2 by registered post and Dasti Summon was also given to the petitioner for service on the respondent No. 2. Despite this, no one turned up on behalf of respondent No. 2 to oppose this writ petition, Hence, this petition is being heard Ex-parte against respondent No. 2.

Heard learned counsel for the petitioner and Mr. Nand Prasad, learned Standing Counsel for respondent No. 1.

The petitioner has filed the present writ petition for setting aside the impugned order dated 20.08.1991 (Annexure No. 4 to the writ petition) passed by the respondent no.1 in Case No 119 of 1990, whereby the accommodation in question was declared vacant. The proceedings were initiated before the Rent Control and Eviction Officer, Dehradun on the application of one Anil Kumar, Advocate, who had moved an allotment application before it.

Thereafter, a report was called, which has been filed as Annexure - 1 to the writ petition, but there is no clear averment in the report of Rent Control Inspector that the house in question is vacant. On 2nd June, 1990, the Rent Control Inspector has submitted the report with the averment that the accommodation in question i.e. 21, Old Canaught Place belongs to Ms. Lalita Kapoor and after inquiry it was found that along with Ms. Lalita Kapoor, her brother-in-law and sister were also living in the said house. Subsequently, objection was filed by respondent No. 2, Anil Kumar that the accommodation in question was let out to R.K. Batra, but prima facie, there is no evidence collected by the Rent Control Inspector. Besides, no vacancy was reported by the Rent Control Inspector in his report dated 02.06.1990, with regard to the accommodation in question. And, without any basis, the learned Rent Control and Eviction Officer had declared vacancy in respect of the premises in question.

Considering the facts and circumstances of the case and the material on record, I am of the view that the impugned order dated 20.08.1991, passed by the respondent No. 1, is illegal, perverse and without any basis, and is liable to be set aside. Therefore, the impugned order dated 20.08.1991 is set aside. The Writ Petition is allowed. No order as to costs.

(B.S.Verma, J.)

H.N.